

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

AIDA CHAVEZ-GARNICA, ALESSA TORRES, A MINOR

(b) County of Residence of First Listed Plaintiff PHILADELPHIA, PA  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)  
Greg Prosmushkin, Esquire  
9637 Bustleton Avenue  
Philadelphia PA 19115

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<b>INTELLECTUAL PROPERTY RIGHTS</b>	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<b>LABOR</b>	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input checked="" type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>IMMIGRATION</b>	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 440 Other Civil Rights		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
		<b>Habeas Corpus:</b>		<input type="checkbox"/> 890 Other Statutory Actions
		<input type="checkbox"/> 441 Voting		<input type="checkbox"/> 891 Agricultural Acts
		<input type="checkbox"/> 442 Employment		<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 443 Housing/ Accommodations		<input type="checkbox"/> 895 Freedom of Information Act
		<input type="checkbox"/> 445 Amer. w/Disabilities - Employment		<input type="checkbox"/> 896 Arbitration
		<input type="checkbox"/> 446 Amer. w/Disabilities - Other		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
		<input type="checkbox"/> 448 Education		<input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §1346 (b)

## VI. CAUSE OF ACTION

Brief description of cause:  
Plaintiffs' vehicle was rear ended by USPS' vehicle

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

## DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

April 5, 2022

## FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

SIGNATURE OF ATTORNEY OF RECORD

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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<b>AIDA CHAVEZ-GARNICA, INDVIDUALLY</b>	:	<b>Civil Action</b>
<b>AND AS P/N/G OF ALESSA TORRES, A</b>	:	
<b>MINOR</b>	:	
<b>Plaintiffs,</b>	:	
	:	
<b>vs.</b>	:	
	:	<b>Docket No.:</b>
<b>UNITED STATES OF AMERICA</b>	:	
	:	
<b>Defendant.</b>	:	

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiffs, Aida Chavez-Garnica and Alessa Torres, a minor, claim damages against the United States of America, and in support thereof avers as follows:

**THE PARTIES:**

1. Plaintiff, Aida Chavez-Garnica, is an adult individual, residing at 6356 Mershon Street, Philadelphia, PA 19149.
2. Plaintiff, and Alessa Torres, is a minor individual, residing at 6356 Mershon Street, Philadelphia, PA 19149.
3. The Defendant, United States of America, operates the United States Post Office, and in furtherance thereof, owns and controls certain motor vehicles.

**JURISDICTION AND VENUE:**

4. This Court has jurisdiction pursuant to 28 U.S.C. §1346(b).
5. On or about May 10, 2021, Plaintiffs' counsel submitted Administrative Claims for sums certain pursuant to the terms of the Federal Tort Claims Act to the appropriate administrative agency (United States Postal Service).

6. Plaintiffs bring this action in accordance with 28 U.S.C. §2401(b), as no action has been taken on Plaintiffs' Administrative Claim for more than six (6) months.

7. Venue lies in this district pursuant to 28 U.S.C. §1402(b) as all of the events relevant to this action occurred in this district.

COUNT I

AIDA CHAVEZ-GARNICA V. UNITED STATES OF AMERICA

8. Plaintiff incorporates by reference the preceding paragraphs as if each were fully set forth at length herein.

9. On or about October 3, 2019, at approximately 9:00 a.m., Plaintiff, Aida Chavez-Garnica (hereinafter "ACG"), was lawfully and appropriately operating her automobile, with Plaintiff Alessa Torres as a passenger, on Devereaux Avenue at or near its intersection with Leonard Street, Philadelphia, Pennsylvania.

10. At said time and place, Defendant, United States of America was the owner of a motor vehicle being operated by an employee of Defendant, United States of America, acting within the scope of their employment, who was travelling in the same direction as Plaintiffs, directly behind Plaintiff ACG's vehicle, when suddenly and without any warning, the operator of said vehicle violently crashed into the rear of the Plaintiff's automobile.

11. At said time and place, Defendant, United States of America, by and through its employee operating its motor vehicle did so carelessly, negligently and recklessly operate said motor vehicle so as to cause a collision to occur with the Plaintiff's vehicle as aforesaid.

12. As a result of the negligence, carelessness and recklessness on the part of Defendant, by and through its employee as aforesaid, Plaintiff, Aida Chavez-Garnica, was caused to sustain severe personal injuries, has been and in the future will be caused to undergo great pain and suffering, has been and in the future will be prevented from pursuing her usual

duties and occupations and has been and in the future will be caused to expend large sums of money for medical care and attention in and about endeavoring to cure herself of her said injuries.

WHEREFORE, Plaintiff, Aida Chavez-Garnica, demands judgment against the Defendant, United States of America, for such sums as would reasonably and properly compensate them in accordance with the laws of the State of Pennsylvania and the Federal Tort Claims Act, together with interest and costs of suit.

**COUNT I**  
**ALESSA TORRES V. UNITED STATES OF AMERICA**

13. Plaintiff incorporates by reference the preceding paragraphs as if each were fully set forth at length herein.

14. At all times material and relevant hereto, Defendant, United States of America, by and through its employee operating its motor vehicle did so carelessly, negligently and recklessly operate said motor vehicle so as to cause a collision to occur with the Plaintiff's host vehicle as aforesaid.

15. As a result of the negligence, carelessness and recklessness on the part of Defendant, by and through its employee as aforesaid, Plaintiff, Alessa Torres, was caused to sustain severe personal injuries, has been and in the future will be caused to undergo great pain and suffering, has been and in the future will be prevented from pursuing her usual duties and occupations and has been and in the future will be caused to expend large sums of money for medical care and attention in and about endeavoring to cure herself of her said injuries.

16. As a result of the negligence, carelessness and recklessness on the part of Defendant, by and through its employee as aforesaid, Plaintiff, Alessa Torres, was caused to sustain severe personal injuries, has been and in the future will be caused to undergo great pain

and suffering, has been and in the future will be prevented from pursuing her usual duties and occupations and has been and in the future will be caused to expend large sums of money for medical care and attention in and about endeavoring to cure herself of her said injuries.

WHEREFORE, Plaintiff, Alessa Torres, a minor, demands judgment against the Defendant, United States of America, for such sums as would reasonably and properly compensate them in accordance with the laws of the State of Pennsylvania and the Federal Tort Claims Act, together with interest and costs of suit.

**Demand for Jury Trial**

PLEASE TAKE NOTICE that the Plaintiffs hereby demands a jury trial as to all issues so triable.

**CERTIFICATION**

GREG PROSMUSHKIN, ESQUIRE, hereby certifies that there are no other actions or arbitrations pending or contemplated involving the subject matter of this controversy at this time, and that there are no additional known parties who should be joined to the present action at this time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**NOTICE PURSUANT TO F.R.C.P. RULE 5 AND 31 (C)**

PLEASE TAKE NOTICE that the undersigned attorney hereby demands that each party herein serve pleadings and/or interrogatories and/or receiving papers thereto serve copies of all such pleadings and answered interrogatories received from any party upon the undersigned and take further notice that this is a continuing demand.

**DESIGNATION OF TRIAL COUNSEL**

Plaintiffs designate Greg Prosmushkin, Esquire, as trial counsel in this matter.

Greg Prosmushkin, P.C.

By: \_\_\_\_\_

Greg Prosmushkin, Esquire  
Attorney for Plaintiff  
9637 Bustleton Avenue  
Philadelphia, PA 19115  
(215) 673-7733  
Fax: (215) 673-7933  
e-mail: office@gproslaw.com

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

